

NEBRASKA STATE BOARD OF HEALTH MEETING
DRAFT MINUTES – September 19, 2011

ATTENDANCE NOTIFICATION. A regular meeting of the State Board of Health was called to order by the Chair, Gary Westerman, DDS, at 1:03 p.m. on September 19, 2011 in Conference Room B/C of Bellevue Medical Center in Bellevue. Copies of the agenda were mailed to board members, news media, and other interested parties prior to the meeting, and posted on the Health and Human Services website. The following members were present: Daniel Bizzell, EdD; Janet Coleman; Edward Discoe, MD; Ted Evans, DVM; Russell Hopp, DO; Diane Jackson, APRN; Ken Kester, Pharm D, JD; Debra Parsow; Roger Reamer, MBA; Rich Robinson, PE; Luisa Rounds, RN; Paul Salansky, OD; Wayne Stuberg, PhD, PT; John Tennity, DPM; Gary Westerman, DDS; and Daryl Wills, DC.

Members not in attendance: Dale Michels, MD

Staff attending: Monica Gissler, David Montgomery

APPROVAL OF AGENDA. Dr. Westerman asked if there were any changes to the agenda for the meeting today. There was one typo on page 6. There being no objections, the agenda was approved by consent calendar.

APPROVAL OF MINUTES. Dr. Westerman asked if there were any changes to the minutes from the June 20, 2011 meeting. There being no objections, the minutes were approved by consent calendar.

CHIEF MEDICAL OFFICER'S REPORT. Dr. Acierno and Dr. Schaefer were unable to attend today, but Dr. Schaefer did submit a written CMO Report.

CHAIRPERSON'S REPORT. Dr. Westerman reported on the following:

1. Thank you to Interim CEO Paulette Davidson and her staff for welcoming us to Bellevue Medical Center. We enjoyed the facility tour and your hospitality in hosting us today. Special thanks to Mark Bowen of UNMC for coordinating with us.
2. Has anyone attended any professional board meetings that they would like to report on?

Dr. Westerman attended the Board of Dentistry meeting in July. A large portion of the meeting was closed session due to disciplinary cases.

Dr. Salansky attended the Board of Optometry meeting in June. There is a lot of frustration with the timeline to implement the Uniform Credentialing Act.

Ms. Jackson attended the Center for Nursing meeting in August. The passport is now finalized. They are sending information on training to new facilities.

Dr. Stuberg attended the public hearing for the proposed regulations for Chiropractic.

There is a current 2011 Professional Board Meeting Schedule on the handout table. It is important that you let Monica know in advance when you plan to attend a meeting, and if you plan to attend the entire meeting or just a portion. If the meeting includes a working lunch, a lunch will not be ordered for you, unless specific arrangements are made.

3. At our November meeting we will hold election of officers. Please email Monica Gissler if you would like your name on ballot, and specify which office – or offices – you are seeking. We will also distribute committee preference sheets for 2012 at that time.
4. Kerry Winterer, CEO of the Department of Health and Human Services, announced last Friday that Todd Reckling, Director of the DHHS Division of Children and Family Services, has resigned effective October 14 due to personal health reasons.
5. Today DHHS is holding a town hall meeting in North Platte to get public input on the state's Oral Health Plan. There will be another town hall meeting in Gering on September 20th, and another in Norfolk on October 5th. The purpose is to get input to help DHHS develop a State Plan that fits the needs of all Nebraskans. This meeting will bring together local dentists and hygienists, health officials, and members of the public who have questions or concerns about oral health information and services in Nebraska. (The entire draft plan can be found on the DHHS website at <http://www.dhhs.ne.gov/dental>. An online survey form provides an opportunity for input.)
6. DHHS announced a new administrator for its Office of Health Disparities and Health Equity. Josie Rodriguez started on September 6. Research shows poor health outcomes occur among racial/ethnic minorities often as much as five times the rates for whites, and racial/ethnic minorities are far more likely to die from health conditions, illnesses, and diseases, that are often preventable. Rodriguez comes to DHHS from the Nebraska Attorney General's Office where she worked for five years as the Latino and Senior Consumer Protection Outreach Coordinator.
7. Committee Chairs – in November your annual committee report will be due. Staff will assist with the preparation.
8. In the September/October issue of *Omaha Magazine*, Dr. Hopp was recognized as being one of the best doctors for Allergy and Immunology in the Omaha area for 2011-2012. We are honored to have him serve among us.

PRESENTATION FROM SARPY/CASS DEPARTMENT OF HEALTH AND

WELLNESS. Emergency preparedness for flooding. Nancy Braswell, the Public Health Emergency Response Coordinator for SCDHW, distributed a packet she had prepared for the public in response to flooding. They dealt with flooding, health precautions, disease prevention, vaccination recommendations, and preparing for evacuation, but their biggest priority was public information. To accomplish that, they prepared packets, made pocket guides for emergency preparedness and flooding, issued several press releases, and made sure their website was continually current and contained several helpful links. Vicki Roberts, a SCDHW board member, also attended the meeting.

Dr. Hopp made a motion to accept these reports, seconded by Dr. Tennity; and all in favor by voice vote.

COMMITTEE REPORTS.

Rules and Regulations Committee – Dr. Kester, Committee Chair, reported. DHHS participated at the morning committee meeting via teleconference, and again during the open public afternoon meeting.

REVIEW THE FOLLOWING REGULATIONS:

391 NAC 1-5, Review of Draft Child Care Licensing Regulations. These programs include those that care for children in family home settings; child care centers; pre-schools; and centers that serve only school age children. A public hearing was held on August 25, 2011. These regulations would:

- Create a separate chapter of regulations for each type of child care license;
- Organize each chapter in the same manner;
- Incorporate updated standards to improve child health and safety in licensed child care and the quality of licensed child care;
- Create a new license category for programs that serve only school-aged children; and
- Incorporate legislative changes.

3. Other Committee Update. All Board of Health members received a letter regarding proposed changes to the rules and regulations for chiropractic, but those regs have not yet come before this Board.

Mr. Robinson made a motion to accept these reports, seconded by Ms. Rounds; and all in favor by voice vote.

Credentialing Review (407) Committee – Ms. Coleman, Committee Chair, presented a status report on pending reviews.

- Update on Potential Technical Reviews: Lactation Consultants, Music Therapists, Acupuncturists, and EMS in homes. Music Therapy is the most likely of these to enter the

formal Credentialing Review process first, and in that case, in November they will seek a Board of Health member to chair the Committee.

Mr. Robinson made a motion to accept these reports, seconded by Dr. Tennity; and all in favor by voice vote.

Professional Boards Committee. Dr. Tennity, Committee Chair, reported. He thanked the Committee members for conducting interviews on a Sunday, September 18th, in Bellevue. Committee members conducted 8 interviews. Twelve additional interviews are scheduled for October 16, 2011 in Lincoln.

Board of Advanced Practice Registered Nurses:

Certified Registered Nurse Anesthetist and Physician - Reappoint Steve Wooden, DNP, CRNA from Albion to the term 12/2/2011 to 11/30/2016.

Physician member with Nurse Practitioner relationship – Reappoint Michelle Knolla, MD from Omaha to the term 12/2/2011 to 11/30/2016.

Board of Alcohol and Drug Counseling:

Alcohol and Drug Counselor - Reappoint Frank Bailey, III, from Omaha to the term 12/1/2011 to 11/30/2016.

Board of Athletic Training:

Athletic Trainer - Reappoint Kurt Behrhorst, ATC from Lincoln to the term 12/1/2011 to 11/30/2016.

Board of Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art:

School Owner - Reappoint Ruth Lucas from McCook to the term 12/1/2011 to 11/30/2016.

Board of Dentistry:

Dental School Faculty - Reappoint Terrence Wilwerding, DDS from Omaha to the term 12/1/2011 to 11/30/2016.

Dentist - Appoint Dennis Anderson, DDS, MS from to the term 12/1/2011 to 11/30/2016.

Board of Hearing Instrument Specialists:

Otolaryngologist - Appoint Brett Thedinger, MD from Omaha to the term 12/26/2011 to 11/30/2016.

Board of Medical Radiography:

Medical Radiography - Reappoint Michael McFeely, RT from Scottsbluff to the term 12/1/2011 to 11/30/2016.

Board of Mental Health Practice:

Certified Master Social Worker - Reappoint Susan Feyen, LICSW from Omaha to the term 12/1/2011 to 11/30/2016.

Certified Professional Counselor - Reappoint Sarita “Sarah” Ruma, LIMHP, CPC from Omaha to the term 12/1/2011 to 11/30/2016.

Board of Nursing:

Nursing Service Administration - Appoint Jane Carmody, DNP, MBA, BSW, RN from Omaha to the term 12/1/2011 to 11/30/2016.

Practical Nurse Member – Appoint Maxine Guy, LPN from Omaha to the term 9/19/2011

to 11/30/2013.

Public member - Reappoint Wendy McCarty, EdD from Grand Island to the term 12/1/2011 to 11/30/2016.

Board of Optometry:

Optometrist - Reappoint Kim Baxter, OD from North Plate to the term 12/1/2011 to 11/30/2016.

Perfusionist Committee:

Physician – Reappoint John Batter, MD from Omaha to the term 12/1/2011 to 11/30/2016.

Board of Pharmacy:

Pharmacist - Reappoint Robert Marshall, RP, BS, PharmD from Norfolk to the term 12/1/2011 to 11/30/2016.

Board of Physical Therapy:

Physical Therapist - Reappoint Natalie Harms, PT, GCS from Omaha to the term 12/1/2011 to 11/30/2016.

Physician Assistant Committee:

Medical Board Member - Appoint Michael Bittles, MD from West Point to the term of 12/1/2011 to 11/20/2016.

Board of Podiatry:

Podiatrist - Reappoint Scott Nelson, DPM, FACFAS from Omaha to the term 12/1/2011 to 11/30/2016.

Board of Psychology:

Psychologist - Reappoint David Carver, PhD from Omaha to the term 12/1/2011 to 11/30/2016.

Board of Respiratory Care Practice:

Respiratory Care Practitioner - Reappoint John Jarosz, MS, RRT from Omaha to the term 12/1/2011 to 11/30/2016.

Board of Veterinary Medicine and Surgery:

Veterinarian - Reappoint Paul Foy, DVM from Ogallala to the term 12/1/2011 to 11/30/2016.

Veterinary Technician - Reappoint Natalie Kyhn, LVT from Lincoln to the term 12/1/2011 to 11/30/2016.

Dr. Tennity made a committee motion to approve these appointments, and offered the option to vote individually on an appointment. Voting yes to approve all proposed appointments: 16 (Bizzell, Coleman, Discoe, Evans, Hopp, Jackson, Kester, Parsow, Reamer, Robinson, Rounds, Salansky, Stuberg, Tennity, Westerman and Wills); voting no: 0; not voting: 0. Motion carried.

There are three vacancies for which there have been no applications submitted, including Registered Environmental Health Specialist, Funeral Director, and Hearing Instrument Specialist.

Mr. Montgomery addressed a question that came up during a professional board interview regarding the Occupational Therapy scope of practice. There is a conflict between the actual practice act and the wording in the Uniform Credentialing Act that deals with OT title protection. If this issue came up with a conflict, it would have to be addressed. This is an apparent oversight

in the UCA. The requirements for the OT board positions still prevail in terms of having been in practice and licensed both for at least five years.

The issue of 2012 meetings with professional board chairs was discussed, and the duties of the Professional Boards Committee members in regard to screening applications.

Ms. Coleman made a motion to accept this report, seconded by Dr. Bizzell; and all in favor by voice vote.

Public Health, Education and Legislation Committee: Dr. Hopp, Committee Chair, presented.

- The Public Health Recognition program is an ongoing effort. Later this week Dr. Salansky will present the certificate to the Nebraska Foundation for Children's Vision. Please take the time to recognize the worthy community organizations that are out there.
- The agenda for the January legislative luncheon will be discussed at the November 21st PHEL Committee meeting.
- LR212 Update, as discussed under Credentialing Review. This has been ongoing since June 2010. Following the summer meeting, Dave Buntain is drafting legislative language, and the committee will provide "real world" criteria. Dr. Hopp drafted some proposed criteria, which is circulating electronically.

Dr. Wills made a motion to accept this report, and all in favor by voice vote.

UNFINISHED BUSINESS.

- Dr. Westerman discussed the letter from the Dental Hygienists (June 16th) regarding placing sealants. This was discussed at the last Board of Dentistry meeting, and no action was taken. Ms. Coleman made a motion to table this item, 15 in favor by voice vote, one against, motion tabled.

NEW BUSINESS.

- Election of Board of Health officers will occur at the next meeting. Let Monica know if you would like to have your name on the ballot.
- Letter from Board of Chiropractic (September 6th) regarding Dry-Needling by Physical Therapists. The public hearing on the PT regulations was held three days ago, and we have not yet received the comments from that hearing. Dr. Wills provided background information regarding hollow needles for trigger point injections in the 1970s. It evolved into a solid monofilament needle, like acupuncture.
Dr. Mark Worth, a member of the Board of Chiropractic, asked to speak. They had been asked if B12 injections were within their scope of practice, and they determined that this is not within their scope. The question is, if more information came to light, and they were

asked this question again, would they be able to answer differently.

Mr. Montgomery explained that what is relevant is what is in the specific wording of their scope of practice in Nebraska, not what is occurring in another state. The final determiner is the legislature and the courts. The Board may request an opinion from the Attorney General. Boards should approach this option with caution.

Dr. Stuberger explained that two years ago when he was serving as Chair of the Board of Physical Therapy, they decided that dry needling was not within their scope. Dr. Stuberger made a motion that the Board of Health ask Dr. Schaefer to request that DHHS Legal and the staff liaison to the PT Board to review the statutory and regulatory language to articulate the grounds upon which that opinion was overturned. Voting yes: 16 (Bizzell, Coleman, Discoe, Evans, Hopp, Jackson, Kester, Parsow, Reamer, Robinson, Rounds, Salansky, Stuberger, Tennity, Westerman and Wills); voting no: 0; not voting: 0. Motion carried.

PUBLIC COMMENTS.

Mary Hewitt from the Nebraska Dental Hygienists Association spoke about the June 16, 2011 sealant letter. They request that DHHS Legal review the letter from the Board of Dentistry, and determine on what authority they say that dental assistants can do sealants. Dr. Wills made a motion to untable the item #8 dental issue, seconded by Ms. Coleman. Voting yes: 10 (Coleman, Discoe, Hopp, Jackson, Kester, Parsow, Robinson, Rounds, Salansky and Wills); voting no: 6 (Bizzell, Evans, Reamer, Stuberger, Tennity, Westerman); not voting: 0. Motion carried, the issue is untabled.

Ms. Coleman made a motion to recommend to the Dental Hygienist group that they seek a legal opinion from DHHS; second by Dr. Hopp. Voting yes: 13 (Bizzell, Coleman, Discoe, Evans, Hopp, Jackson, Kester, Parsow, Reamer, Robinson, Rounds, Salansky, Westerman and Wills); voting no: 3 (Discoe, Stuberger, Tennity); not voting: 0. Motion carried,

PREPARATION FOR NEXT MEETING. The next regular Board of Health meeting will be November 12, 2011 at the State Office Building in Lincoln. Professional Board interviews will be conducted in Lincoln on October 16th. Thank you to our Omaha members for hosting the reception in Omaha!

ADJOURN. There being no further business, the meeting adjourned at 2:45 PM. Minutes taken by Monica Gissler. Draft minutes not approved prior to distribution.

NOTE: If you would like to receive these minutes electronically instead of receiving a hard copy, please send a request to the email address below. Please also inform staff if you would like to be removed from this distribution list altogether.

If you would like any attachments mentioned in these minutes, or have other questions, please contact Monica Gissler, 402/471-6515, Fax 402/471-0383, or email at: monica.gissler@nebraska.gov.